

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 9847
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

O R D E R

On February 23, 1987, Kentucky Industrial Utility Customers ("KIUC") filed a Petition for Rehearing of the Commission's Order entered February 2, 1987, dismissing KIUC's complaint against Louisville Gas and Electric Company ("LG&E"). KIUC's petition argues that its complaint did present a prima facie case and that pursuant to the Commission's regulations, 807 KAR 5:001 Section 12(4), the complaint should not have been dismissed. On March 4, 1987, LG&E filed a response in opposition to KIUC's petition for rehearing.

KIUC's complaint alleged that LG&E's authorized cost of capital, established by the Commission in May 1984, is too high based upon current interest rates and market conditions. The complaint requested the Commission to initiate hearings to lower LG&E's cost of capital. The Commission dismissed the complaint on the grounds that: (1) KIUC failed to include any analysis of LG&E's current cost of capital or its current earnings; (2) the

Commission continually monitors LG&E's earnings by reviewing its monthly financial reports on file with the Commission as public record, and this monitoring will continue.

KIUC's petition argues that the recitation in its complaint that interest rates have decreased since LG&E's last rate proceeding establishes a prima facie complaint case. KIUC cites as support a New York Public Service Commission Order issued February 10, 1987, initiating a review of rates of Consolidated Edison Company of New York, Inc. While the New York Public Service Commission did initiate such a rate investigation citing the reduction in interest rates over the past few years, the New York Commission's Order states that an analysis of current earnings was performed and the results for 1986 and projections for 1987 are set forth. This is precisely the analysis that KIUC failed to include in its complaint and was not included in its petition for rehearing. As the Commission stated in its Order dismissing the complaint, this analysis must be presented to constitute a prima facie complaint.

KIUC's petition further argues that the Commission has denied KIUC due process under its regulations by not returning the complaint to KIUC with instructions that it be amended. The Commission finds no merit in this argument. The Commission's regulation, 807 KAR 5:001 Section 12(4), does not mandate that the Commission allow an insufficient complaint to be amended in lieu of being dismissed. The Commission's order entered February 2, 1987, dismissed KIUC's complaint without prejudice. Consequently,

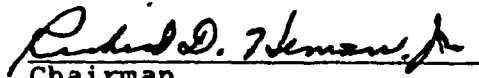
KIUC can file another complaint raising these same rate issues at any time.


Based upon the petition for rehearing, the response thereto, the evidence of record and being advised, the Commission is of the opinion and hereby finds that no sufficient basis has been presented to grant a rehearing.

IT IS THEREFORE ORDERED that KIUC's petition for rehearing be, and it hereby is, denied.

Done at Frankfort, Kentucky, this 16th day of March, 1987.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director